



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE  
International Trade Administration  
A-570-898

Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On November 15, 2011, the Department of Commerce (the Department) published in the Federal Register the preliminary rescission of the antidumping duty new shipper review (NSR) of chlorinated isocyanurates from the People's Republic of China (PRC) for Heze Huayi Chemical Co. Ltd. (Heze Huayi).<sup>1</sup> We gave interested parties an opportunity to comment on the preliminary rescission. Based on our analysis of the comments received, we now are assigning Heze Huayi its own rate for these final results. See "Final Results of Review" section below.

DATES: Effective [Insert the publication date in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1396.

SUPPLEMENTARY INFORMATION:

We preliminarily rescinded the NSR for Heze Huayi on November 15, 2011. See Preliminary Results. In the preliminary rescission notice, the Department stated that interested parties were to submit case briefs within 30 days of publication of the Preliminary Results and rebuttal briefs within five days after the due date for filing case briefs. We received a case brief

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<sup>1</sup> See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Rescission of Antidumping Duty New Shipper Review, 76 FR 70705 (November 15, 2011) (Preliminary Results).

from Heze Huayi on December 16, 2011; we received a rebuttal brief from the Clearon Corp. and Occidental Chemical Corporation (collectively, Petitioners) on December 22, 2011.<sup>2</sup> On December 15, 2011, we received a hearing request from Heze Huayi, pursuant to 19 CFR 351.310(c). Also on December 15, 2011, Petitioners filed a request to participate in a hearing should one be requested by another party. On January 18, 2012, we conducted a closed session hearing concerning Heze Huayi's unreported sales that led to the Department's preliminary rescission of the NSR. On February 1, 2012, the Department extended the time limit for the final results of the NSR.<sup>3</sup> On February 22, 2012, Heze Huayi submitted a "Notice of New Authority" following the U.S. Court of International Trade (CIT) opinion<sup>4</sup> concerning the final results of the third NSR of the antidumping duty order of certain frozen fish fillets from the Socialist Republic of Vietnam,<sup>5</sup> Petitioners filed a rebuttal response to the "Notice of New Authority" submission on February 29, 2012.

#### Period of Review

Pursuant to 19 CFR 351.214(g), the period of review (POR) for this NSR is June 1, 2010, through December 31, 2010.

#### Scope of the Order

The products covered by the order are chlorinated isocyanurates, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid ( $\text{Cl}_3(\text{NCO})_3$ ), (2)

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<sup>2</sup> Petitioners filed an extension request for filing their rebuttal brief until December 22, 2011, and the Department granted the extension request.

<sup>3</sup> See Chlorinated Isocyanurates From the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty New Shipper Review, 77 FR 4990 (February 1, 2012).

<sup>4</sup> See Hiep Thanh Seafood Joint Stock Co. v. United States, Consol. Court No. 09-00270, Slip Op. 12-19 (February 15, 2012).

<sup>5</sup> See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Third New Shipper Reviews, 74 FR 29473 (June 22, 2009), and Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Amended Final Results of New Shipper Review 74 FR 37188 (July 28, 2009).

sodium dichloroisocyanurate (dihydrate) ( $\text{NaCl}_2(\text{NCO})_3(2\text{H}_2\text{O})$ ), and (3) sodium dichloroisocyanurate (anhydrous) ( $\text{NaCl}_2(\text{NCO})_3$ ). Chlorinated isocyanurates are available in powder, granular, and tableted forms. The order covers all chlorinated isocyanurates.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

#### Use of Facts Otherwise Available

Section 776(a) of Tariff Act of 1930, as amended (the Act) provides that the Department shall apply “facts otherwise available” (FA) if, inter alia, necessary information is not on the record. Because we do not have complete sales and factors of production information for certain U.S. sales, the Department has based the antidumping duty margin for Heze Huayi on FA. While section 776(b) of the Act provides for the use of an adverse inference in applying FA in certain circumstances, the Department has determined that no such circumstances are at issue here that would warrant the use of an adverse inference. Therefore, as FA, we are applying the rate of 2.66 percent, which is the rate applied to Hebei Jiheng Chemical Company, Ltd. in the most recently completed administrative review.<sup>6</sup> For a complete discussion, see Memorandum to Paul Piquado, Assistant Secretary for Import Administration, “Issues and Decision Memorandum

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<sup>6</sup> See Chlorinated Isocyanurates from the People’s Republic of China: Final Results of 2008-2009 Antidumping Duty Administrative Review, 75 FR 70212 (November 17, 2010).

for the Final Results of the New Shipper Review of Chlorinated Isocyanurates from the People's Republic of China: Heze Huayi Chemical Co., Ltd.," (Decision Memorandum), dated concurrently with, and hereby adopted by, this notice. A list of the issues addressed in the Decision Memorandum is appended to this notice. The Decision Memorandum is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System (IA ACCESS). IA ACCESS is available in the Central Records Unit, room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum is accessible on the Web at <http://ia.ita.doc.gov/frn>. The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

When the Department relies on secondary information rather than on information obtained in the course of an investigation or review, section 776(c) of the Act provides that, to the extent practicable, the Department shall corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise. To corroborate means that the Department will satisfy itself that the secondary information to be used has probative value.<sup>7</sup> To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.<sup>8</sup>

The FA rate of 2.66 percent selected for Heze Huayi is based on information submitted in a previous segment of this proceeding, the 2008-2009 administrative review. It is a calculated

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<sup>7</sup> See *id.*

<sup>8</sup> See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997).

rate based solely on the questionnaire responses of the mandatory respondent in that review from the immediately preceding review period. Given that this rate is based on recent information submitted by a cooperative respondent producer of the subject merchandise under this same order, we find that the rate is reliable and relevant for use in this administrative review. Therefore, it has probative value for use as FA. As such, the Department finds this rate to be corroborated to the extent practicable, consistent with section 776(c) of the Act.

#### Changes Since the Preliminary Results

Based on our analysis of all of the comments and information on the record, the Department has decided not to maintain its preliminary rescission results for these final results. In the Preliminary Results, the Department found that Heze Huayi failed to report its first sale to the United States which it was required to report pursuant to 19 CFR 351.214(b)(2). For these final results, the Department determines that Heze Huayi could have reasonably concluded that it was not required to report this sale. Accordingly, the Department is not rescinding this review but, instead, assigning Heze Huayi a dumping margin. Because the Department does not have the necessary factors of production data for all sales, we are instead assigning Heze Huayi, based on FA pursuant to section 776 of the Act, the most recently calculated weighted-average margin for a review under this order, 2.66 percent. A full discussion of this decision is set forth in the Decision Memorandum, referred to above.

### Final Results of Review

As a result of our review, we determine the following antidumping margin exists for the period June 1, 2010, through December 31, 2010.

Manufacturer/Exporter	Weighted-Average Margin (Percent)
Heze Huayi Chemical Co. Ltd.	2.66

### Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this NSR. The Department will direct CBP to assess importer-specific assessment rates based on the ad valorem rate on each entry of the subject merchandise during the POR. The Department intends to issue assessment instructions directly to CBP 15 days after the publication of this notice.

### Cash Deposit Requirements

Effective upon publication of the final results of the NSR, we will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise exported by Heze Huayi. The following cash deposit requirements will be effective for all shipments of subject merchandise by Heze Huayi, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of Act: (1) for subject merchandise produced and exported by Heze Huayi, the cash deposit rate will be the percent listed above, or the equivalent per-unit rate; (2) for subject merchandise exported by Heze Huayi, but not manufactured by Heze Huayi, the cash deposit rate will continue to be the PRC-wide rate of 285.63 percent; and (3) for subject merchandise manufactured by Heze Huayi,

but exported by any party other than Heze Huayi, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements will remain in effect until further notice.

#### Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These final results and this notice are issued and published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

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Paul Piquado  
Assistant Secretary  
for Import Administration

\_\_\_\_ April 5, 2012 \_\_\_\_\_  
Date

## **Appendix**

### **Issues in the Decision Memorandum**

**Comment 1:** Whether the Department's Preliminary Determination to Rescind the New Shipper Review Was Correct

**Comment 2:** Whether the Department Properly Analyzed Heze Huayi's Unreported Sales

**Comment 3:** Whether Heze Huayi's Final Antidumping Duty Rate Should Be the PRC-entity Rate

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